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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAY 12 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM DOCKET NO. 93-4
ATKINS BROADCASTING)	File No. BRH-900327UP
For Renewal of License of)	
Station KRGN(FM))	
Amarillo, Texas)	
CAPROCK EDUCATIONAL BROADCASTING)	File No. BRED-900327UQ
FOUNDATION)	
For Renewal of License of)	
Noncommercial Educational)	
Station KLMN(FM))	
Amarillo, Texas)	
CAPROCK EDUCATIONAL BROADCASTING)	File Nos. BMPED-890726IF
FOUNDATION)	BLED-901210KD
For Modification of Construction)	
Permit and For License to Cover)	
Construction of Noncommercial)	
Educational Station KAMY(FM))	
Lubbock, Texas)	
SOUTHWEST EDUCATIONAL MEDIA)	File No. BRED-900327UO
FOUNDATION OF TEXAS, INC.)	
For Renewal of License of)	
Noncommercial Educational)	
Station KENT)	
Odessa, Texas)	
SOUTHWEST EDUCATIONAL MEDIA)	File No. BLED-910705KA
FOUNDATION OF TEXAS, INC.)	
For License to Cover)	
Construction of Noncommercial)	
Educational Station KENT-FM)	
Odessa, Texas)	
SOUTHWEST EDUCATIONAL MEDIA)	File No. BPED-890313MD
FOUNDATION OF TEXAS, INC.)	

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For Construction Permit for a
New Noncommercial Educational FM
Station on Channel 290A at
Stanton, Texas

FAMILY STATIONS, INC.
Assignor

and

SOUTHWEST EDUCATIONAL MEDIA
FOUNDATION OF TEXAS, INC.

Assignee

For Assignment of Construction
Permit for Noncommercial
Educational Station KBTT(FM)
Bridgeport, Texas

SOUTHWEST EDUCATIONAL MEDIA
FOUNDATION

For License to Cover
Construction of Noncommercial
Educational Station KOJO(FM),
Lake Charles, Louisiana

To: Administrative Law Judge
Joseph Chachkin

File No. BAPED-891130HR

File No. BLED-900226KA

**MASS MEDIA BUREAU'S COMMENTS ON PETITION
FOR EXTRAORDINARY RELIEF**

1. On May 3, 1993, Atkins Broadcasting, Caprock Educational Broadcasting Foundation, Southwest Educational Media Foundation of Texas, Inc. and Southwest Educational Media Foundation (together "Atkins") filed a petition for extraordinary relief seeking approval to process a proposed distress sale of certain of the captioned applications. The Mass Media Bureau submits the following comments on Atkins' petition.

2. The licenses and other pending requests relating to Atkins' stations were designated for hearing by Hearing Designation Order and Notice of Apparent Liability for Forfeiture, 8 FCC Rcd 674 (1993) ("HDO"). Nine misrepresentation and three rules violations issues were specified in the HDO. Atkins' advised the Presiding Judge, prior to the scheduled March 30, 1993, prehearing conference, of its intention to request assignment of certain of the captioned applications pursuant to the Commission's distress sale policy. Statement of Policy on Minority Ownership of Broadcast Facilities, 68 FCC 2d 979 (1979) ("Policy Statement") and Clarification of Distress Sale Policy, 44 RR 2d 479 (1978) ("Clarification"). At the prehearing conference the Presiding Judge established May 3, 1993, as the deadline for Atkins to file a petition for extraordinary relief together with applications for assignment of the construction permits and licenses which it held. The Presiding Judge also ordered Atkins to dismiss its application for a construction permit for a new non-commercial station in Stanton, Texas, as well as its application for assignment of construction permit for non-commercial educational station KBTT(FM) Bridgeport, Texas.¹

3. In order to qualify for distress sale relief, a licensee must show that the hearing has not yet commenced, that there is significant minority ownership in the proposed licensee, and that

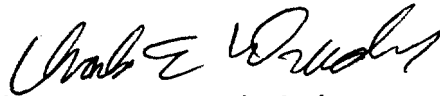
¹ The Presiding Judge's rulings were reiterated in an Order, FCC 93M-137, released April 1, 1993.

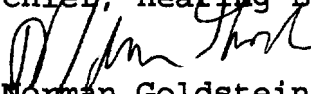
the station(s) will be sold at a maximum of 75 percent of fair market value as of the date of designation for hearing. Lee Broadcasting Corp., 76 FCC 2d 462 (1980); Policy Statement; and Clarification.

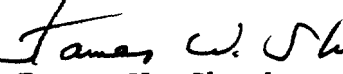
4. It appears that Atkins has made a "threshold showing" consistent with the Commission's requirements under the Commission's distress sale policy. The hearing has not commenced; Atkins proposed assignee, Maranatha Radio. Inc., is 100% controlled by two Hispanic males; and Atkins has furnished two appraisals, one prepared by a broker apparently selected by the buyer, the other by a broker apparently selected by the seller. However, Atkins has misdirected its petition. Specifically, it is the Mass Media Bureau, not the Presiding Judge, which has delegated authority to grant petitions for special relief pursuant to the distress sale policy. See Commission Policy Regarding the Advancement of Minority Ownership in Broadcasting, 92 FCC 849, 859 (1982).

5. Accordingly, the Bureau supports Atkins' petition to the extent that it seeks consideration of its request for distress sale relief. However, the relief sought by Atkins must await action by the Bureau. Thus, the instant proceeding should be stayed pending the Bureau's ruling on Atkins' distress sale showing.

Respectfully submitted,
Roy J. Stewart
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May 12, 1993

CERTIFICATE OF SERVICE

Michelle C. Mebane, secretary of the Hearing Branch, Mass Media Bureau, certifies that she has on this 12th day of May 1993, sent by regular United States mail, U.S. Government frank, copies of the foregoing "**Mass Media Bureau's Comments on Petition for Extraordinary Relief**" to:

James L. Oyster, Esquire
Route 1, Box 203A
Castleton, Virginia 22716

Michelle C. Mebane
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